

## REMARKS

This Application has been reviewed in light of the Final Office Action mailed July 7, 2010. At the time of the Final Office Action, Claims 1-17 and 19-30 were pending, and Claims 18 was previously cancelled. In the Final Office Action, Claims 1-17 and 20-22 were rejected and Claims 19 and 23-30 were objected to. Claims 1, 11, 14, and 20-23 are herein amended, and new Claims 31-33 are added. Applicants respectfully request reconsideration and allowance of all pending claims.

### Rejections under 35 U.S.C. § 102

Claims 1-2, 4-5, 7-9, and 22 were rejected under 35 U.S.C. §102(b) as being anticipated by *Tirschler* (U.S. Patent 7,017,841).

The Examiner argues that the limitation “the varied rotational speed causes the frozen charge to detach from the inner wall of the grinding pipe” reads on *Tirschler*’s teaching of detecting a frozen material, stopping the mill, and manually removing the frozen material. In particular, the Examiner argues that “this stoppage in effect causes the frozen charge to detach from the drum wall since stoppage of the drum allows for a manual separation of the frozen charge.” (Office Action, page 3) Applicants disagree with this position. In particular, Applicants respectfully submit that the Examiner’s interpretation of the term “cause” is unreasonably broad, and would not be adopted by one of ordinary skill in the art. Stopping the drum in *Tirschler* does not *cause* the detachment of the frozen charge; rather, the *manual separation* of the frozen charge after the drum has been stopped *causes* the detachment.

However, in order to advance prosecution, Applicants have amended independent Claims 1 and 22 to even more explicitly distinguish from *Tirschler*. Amended Claim 1 recites “varying the speed of rotation of the grinding pipe by the drive device such that the **varied rotational speed creates detaching forces caused by inertia to act on the frozen charge, the detaching forces created by the varied rotational speed causing the frozen charge to detach** from the inner wall of the grinding pipe.” Similarly, amended Claim 22 recites “controlling the drive device to oscillate the angle of rotation of the grinding pipe about at least one predetermined angle of rotation in order to **create detaching forces caused by inertia to act on the frozen charge, the detaching forces detaching the frozen charge** from the inner wall of the grinding pipe.”

Applicants submit that *Tirschler*'s teaching of detecting a the frozen material, stopping the mill, and manually removing the frozen material clearly cannot read on these limitations of amended Claims 1 and 22. Accordingly, Applicants request reconsideration and allowance of independent Claims 1 and 22, as well as all claims that depend therefrom.

**Rejections under 35 U.S.C. §103**

Dependent Claims 3, 6, and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Tirschler*. Applicants submit that Dependent Claims 3, 6, and 10 are allowable at least because they depend from amended Claim 1, shown above to be allowable.

**Rejections under 35 U.S.C. § 112**

Claims 11-17 and 20-21 were rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner alleges that the term "offset" is not found in the original disclosure. (Office Action, page 3) Applicants submit that one of ordinary skill in the art would understand the term "offset" in the context of Claims 11 and 14, e.g., in view of paragraphs 0027-0038 and Figures 2-6 of the original disclosure.

However, in order to advance prosecution, Applicants have amended independent Claims 11 and 14 to recite "the operating cycle defining oscillations in the angle of rotation of the grinding pipe about at least one **predetermined angle of rotation in which the center of gravity of the frozen charge is deflected in relation to a starting position of the grinding pipe.**" This language is supported, e.g., at paragraphs 0027 of the original disclosure, which teaches "In FIG. 2, the center of gravity of the frozen charge 5 has been deflected in relation to a starting position indicated by  $\varphi_0 = 0^\circ$  by the angle of rotation  $\varphi$  to an angle of rotation indicated by  $\varphi_1$ ." Also, Figures 4 and 5 illustrate example embodiments in which the grinding pipe is rotated about at least one predetermined angle of rotation ( $\varphi_0$  and  $\varphi_1$ ) in which the center of gravity of the frozen charge is deflected in relation to a starting position ( $\varphi_0 = 0^\circ$ ) of the grinding pipe.

Thus, Applicants respectfully request that the rejections under 35 U.S.C. §112, first paragraph be withdrawn.

**New Claims 31-33.**

New dependent Claim 31 is allowable at least because it depends from Claim 11, shown above to be allowable.

New independent Claim 32 recites “varying the speed of rotation of the grinding pipe by the drive device such that *the varied rotational speed detaches the frozen charge* from the inner wall of the grinding pipe.” *Tirschler* does not teach this limitation. As discussed above, in *Tirschler*, stopping the drum does not detach the frozen charge. Rather, stopping the drum allows for a manual separation of the frozen charge after the drum has been stopped. Thus, *Tirschler*’s teaching of detecting a the frozen material, stopping the mill, and manually removing the frozen material does not teach “the varied rotational speed detaches the frozen charge.” Accordingly, Applicants respectfully request allowance of new Claim 32.

New dependent Claim 33 depends from Claim 32 and recites “wherein varying the rotational speed of the grinding pipe *automatically detaches* the frozen charge from the inner wall of the grinding pipe.” *Tirschler* does not teach this limitation. As acknowledged by the Examiner, *Tirschler* teaches “stoppage of the drum allows for a *manual separation* of the frozen charge.” (Office Action, page 3)

For at least the reasons set forth above, Applicants respectfully request allowance of new Claims 31-33.

**Allowable Subject Matter**

Applicants appreciate Examiner’s consideration and indication that Claims 19 and 23-30 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Applicants await further consideration of Claim 1 (from which Claims 19 and 23-30 depend) before taking further action regarding Claims 19 and 23-30.

### CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants respectfully submit a Request for Continued Examination (RCE) Transmittal. The Commissioner is authorized to charge the fee of \$810 required to Deposit Account 50-4871 in order to effectuate this filing.

Applicants also authorize the Commissioner to charge \$376 for new Claims 31-33 to Deposit Account 50-4871.

Applicants believe there are no other fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512-457-2030.

Respectfully submitted,  
KING & SPALDING LLP  
Attorney for Applicants



Eric M Grabski  
Registration No. 51,749

Date: 8/31/10

SEND CORRESPONDENCE TO:  
KING & SPALDING L.L.P.  
CUSTOMER ACCOUNT NO. **86528**  
512-457-2030  
512-457-2100 (fax)